

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DAVID T. COOPER,	:	CIVIL ACTION
	:	
Plaintiff	:	
	:	
v.	:	
	:	JURY TRIAL DEMANDED
REGINALD A. ROBERTS, <u>et al.</u> ,	:	
	:	
Defendants	:	No. 08-0346

DEFENDANT COOPER'S
ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT
AND AFFIRMATIVE DEFENSES

Answer

Defendant Dennis Cooper hereby responds to Plaintiff David T. Cooper's¹ First Amended Complaint. The seven-page First Amended Complaint is divided into only three numbered paragraphs. In its current state, this pleading clearly violates Federal Rule of Civil Procedure 10(b) and cannot be responded to in the typical manner of admitting or denying specific allegations. However, taking into account the fact that Plaintiff is acting pro se, defendant Cooper will make his best attempt to provide a coherent response to the First Amended Complaint.

¹ Plaintiff's First Amended Complaint lists Esther Saunders as a co-plaintiff. Including Esther Sanders as a Plaintiff disregards the Court's March 11, 2008 order dismissing Esther Saunders from the action because she had not signed the complaint nor paid the filing fee or moved for leave to proceed in forma pauperis. (See Doc. No. 4.) Although Esther Saunders has signed the First Amended Complaint, according to the docket, to date, she has not paid the filing fee or moved for leave to proceed in forma pauperis. She therefore remains a non-party to this action.

“Procedural History”

1. To the extent that this paragraph consists of legal conclusions, no response is required. The factual averments regarding the procedural background of this matter are admitted.

“Statement of Claim”

2. Paragraph 2 is a narrative of events spanning five pages and consisting of dozens of sentences, uninterrupted by even the occasional paragraph. It is therefore generally denied. By way of further response, admitted only that:

(a) On February 17, 2006, Plaintiff was on parole under the supervision of the Pennsylvania Board of Probation and Parole (“Board”).

(b) On February 17, 2006, Plaintiff met a confidential informant at 985 Warren Street, Apartment D, in Pottstown, Pennsylvania.

(c) The apartment was under audio and visual surveillance by the Pottstown Police Department and/or the Montgomery County Detectives.

(d) Upon entering the apartment Plaintiff revealed cocaine that was in his possession.

(e) Defendant Powell – a Board supervisor – and other law enforcement officers who were present then entered the apartment and attempted to arrest Plaintiff.

(f) Plaintiff refused oral commands and physically resisted attempts to handcuff him.

(g) After a struggle, defendant Powell and the other officers were able to handcuff Plaintiff and remove him from the premises.

(h) Defendant Powell obtained the keys from Plaintiff's person to his approved residence, 107 Stephanie Lane, Collegeville, Pennsylvania.

(i) Defendant Powell then traveled to 107 Stephanie Lane, Collegeville, Pennsylvania, where he and other Board officers conducted a search for further evidence of illegal activity.

(j) The search revealed a locked safe. Defendant Reginald Roberts – a Montgomery County detective – obtained a search warrant for the safe, which was transported to the Pottsville Police Department.

(k) Defendant Raymond Havrilak – a Pottsville Police Department Sergeant – then opened the safe, which contained \$1,100.00 in cash and other items.

(l) The cash was seized as evidence. Defendant Havrilak returned the safe and all other items to Esther Saunders, who also resided at 107 Stephanie Lane, Collegeville, Pennsylvania.

(m) Plaintiff was thereafter charged with various narcotics offenses and resisting arrest.

(n) On October 10, 2006, Plaintiff, as part of a plea deal, pled guilty to one of the narcotics offenses.

(o) On October 17, 2006 Plaintiff was sentenced to seven and a half to fifteen years incarceration. On that date, the remaining charges were nolle prossed.

“Relief”

3. This paragraph consists of legal conclusions to which no response is required.

Affirmative Defenses

First Affirmative Defense

To the extent that Plaintiff seeks monetary relief from defendant Cooper in his official capacity, his claims are barred by the Eleventh Amendment.

Second Affirmative Defense

In his individual capacity, defendant Cooper is protected from claims for monetary relief by qualified immunity.

Respectfully submitted,

THOMAS W. CORBETT, JR.
Attorney General

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Chief, Litigation Section

Date: September 4, 2008

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Defendants	:	No. 08-0346

CERTIFICATE OF SERVICE

I, Kevin R. Bradford, hereby certify that the Answer has been filed electronically on September 4, 2008 and is available for viewing and downloading from the Court's Electronic Case Filing System ("ECF"). The following parties are listed as ECF Filing Users and are therefore automatically served by electronic means:

- David P. Karamessinis, Esquire [dkarames@travelers.com; kjaffe@travelers.com]
- Jonathan B. Young, Esquire [jbyoung@dbyd.com]

I further certify that a true and correct copy of this document was mailed on September 4, 2008 by first class mail, postage prepaid to the following parties who are not listed as ECF Filing Users in this matter:

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